

REMARKS

The present application was filed on September 22, 1999 with claims 1-11. Claims 1-14 are currently pending. Claims 1, 5, 10 and 12 are independent claims.

In the present Office Action dated December 2, 2007, claims 12-14 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,414,858 to Hoffman et al. (hereinafter "Hoffman"). Moreover, claims 12-14 are rejected on the grounds of nonstatutory double patenting over claims 1-3, 7-9 and 12-14 of Hoffman.

In formulating the §103 rejection in paragraph 4 on page 2 of the present Office Action, the Examiner asserts that because the Applicants' "amendments to claim 12 make it similar to previously presented claims 1, 2, 5, 6, 10 and 11 . . . , the Board's rejection of claim 12 is maintained." Applicants have amended claim 12 in the manner helpfully suggested by the Examiner in an interview conducted on Monday, February 4, 2008, with David E. Shifren, Reg. No. 59,329, so as to overcome the present rejection by introducing limitations not previously considered by the Board.

Specifically, claim 12, as amended, recites limitations directed to transitioning from a polling-based mechanism to an interrupt-based mechanism for processing work items responsive to a determination by the speculative task that no additional work items for processing have been received between the scheduling of the speculative task and the execution of the speculative task; and transitioning from an interrupt-based mechanism to a polling-based mechanism for processing work items responsive to a determination by the speculative task that additional work items for processing have been received between the scheduling of the speculative task.

Dependent claims 13 and 14 are patentable at least by virtue of their dependency from independent claim 12, and also recite patentable subject matter in their own right. Accordingly, withdrawal of the rejection to claims 12-14 under 35 U.S.C. §103(a) is therefore respectfully requested.

With regard to the double patenting rejection of claims 12-14, Applicants note that both Hoffman and the present application are assigned of record to International Business Machines Corp. Accordingly, Applicants are submitting herewith a terminal disclaimer to overcome the present double patenting rejection.

With regard to claims 1-11, Applicants acknowledge that the final rejection of these claims was affirmed by the Board and that prosecution of these claims is closed. However, Applicants respectfully note that MPEP 1214.01 indicates that “[p]rosecution before the examiner of the 37 CFR 41.50(b) rejection can incidentally result in overcoming the affirmed rejection even though the affirmed rejection is not open to further prosecution. Therefore, it is possible for the application to be allowed as a result of the limited prosecution before the examiner of the 37 CFR 41.50(b) rejection.” Notwithstanding the above, Applicants authorize the Examiner to amend and/or cancel claims 1-11 if necessary for allowance.

In view of the above, Applicants believe that claims 1-14 are in condition for allowance, and respectfully request withdrawal of the present rejections and allowance of the application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William E. Lewis". The signature is fluid and cursive, with the first name "William" being the most prominent part.

William E. Lewis
Attorney for Applicant(s)
Reg. No. 39,274
Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560
(516) 759-2946

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